

IC 5-14-2

Chapter 2. Public Access to Criminal Proceedings

IC 5-14-2-1

Definitions

Sec. 1. As used in this chapter:

"Criminal action" means a prosecution initiated in the name of the state of Indiana against an accused alleging the commission of a felony or misdemeanor.

"Criminal proceedings" means court proceedings in a criminal action after the arrest of an accused and before any appeal is instituted; it does not include:

- (1) the deliberations of juries;
- (2) omnibus hearings except for those portions at which witnesses are sworn and testimony taken; or
- (3) any proceeding in which rights of attendance by the general public are otherwise specifically governed by statute or rules of procedure.

"General public" means any individual, or group of individuals, but does not include the parties to the criminal action.

"Open to attendance" means that individuals have the right freely to attend and observe criminal proceedings.

"Rules of procedure" means rules adopted by the supreme court of Indiana.

As added by Acts 1982, P.L.40, SEC.1.

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Open attendance

Sec. 2. Criminal proceedings are presumptively open to attendance by the general public.

As added by Acts 1982, P.L.40, SEC.1.

IC 5-14-2-3

Exclusion of general public; opportunity to be heard

Sec. 3. No court may order the exclusion of the general public from any criminal proceeding, or part of a criminal proceeding, unless it first affords the parties and the general public a meaningful opportunity to be heard on the issue of any proposed exclusion.

As added by Acts 1982, P.L.40, SEC.1.

IC 5-14-2-4

Hearing on exclusion motion or order

Sec. 4. Whenever any motion to exclude the general public from a criminal proceeding is filed with a court, or if a court proposes to issue such an exclusion order on its own, the court must set a hearing date on the motion or proposed order. The hearing date shall be set sufficiently in advance so that the parties and members of the general public can prepare their pleadings and evidence and file briefs on the motion or proposed order. The time for the hearing date shall not be extended, however, so that it imposes an unreasonable delay under

the circumstances of the case.
As added by Acts 1982, P.L.40, SEC.1.

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Notice of hearing

Sec. 5. The court shall notify the parties of the hearing date and shall notify the general public by posting a copy of the hearing notice at a place within the confines of the court accessible to the general public.

As added by Acts 1982, P.L.40, SEC.1.

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Hearing procedures

Sec. 6. (a) At the hearing, any party or member of the general public may object to any proposed exclusion. Any member of the general public has the right to be represented by counsel.

(b) If no objection is presented to the court, the court may rule upon the motion to exclude or issue its proposed exclusion order, without further proceedings.

(c) If an objection is presented to the court, then the party who filed the motion to exclude, or the court, if it proposed to issue an exclusion order on its own, has the burden of proving by clear and convincing evidence that:

- (1) dissemination of information about the content of the criminal proceeding and about its record would create a serious and imminent danger to the defendant's rights;
- (2) any prejudicial effect created by any such dissemination cannot be avoided by any reasonable alternative means; and
- (3) there is a substantial probability that the exclusion will be effective in protecting against the perceived harm.

(d) If the court finds the burden of proof has not been met, it shall deny the motion to exclude or withdraw any proposed exclusion order.

(e) If the court finds the burden of proof has been met, it may grant the motion or issue the proposed order, but:

- (1) any exclusion must extend no further than the circumstances reasonably require; and
- (2) the exclusion must be temporary.

A complete record shall be kept and made available to the general public for public inspection at the earliest time consistent with trial fairness.

(f) All proceedings on a motion or a proposed court order to exclude the public must be recorded for subsequent review.

(g) The court must make, on the record, specific findings of fact and conclusions of law to support its ruling on any such motion or proposed order.

As added by Acts 1982, P.L.40, SEC.1.

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Inherent power of court

Sec. 7. This chapter does not affect the inherent power of a court to make limited exclusions of witnesses, to relieve overcrowding, to protect the order and decorum of the courtroom, or to exclude those individuals whose presence constitutes a direct threat to the safety of the spectators, parties, or witnesses.

As added by Acts 1982, P.L.40, SEC.1.

IC 5-14-2-8

Original action to contest exclusion ruling of trial court

Sec. 8. (a) Any party or member of the general public aggrieved by the ruling of the court on the issue of exclusion of the general public from a criminal proceeding has the right to bring an original action before the supreme court of Indiana under the Rules of Procedure for Original Actions Including Writs of Mandate and Prohibition contesting the ruling.

(b) The general public has standing to bring an original action.

(c) Either the filing of a motion or a proposed court order to exclude the general public, or the presenting to the court of an objection to a motion to exclude, constitutes a showing that the duty to act has been presented or brought to the attention of the trial court.

(d) A trial court is without authority to act upon any exclusion motion or issue an exclusion order on its own unless:

- (1) it complies with sections 3, 4, and 5 of this chapter; and
- (2) its findings of fact and conclusions of law are supported by the record of the proceedings.

As added by Acts 1982, P.L.40, SEC.1.